

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARLOS BUSTAMANTE,

Plaintiff,

v.

MICHAEL CHERTOFF, *et al.*,

Defendants.  
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ECF Case

No. 07 Civ. 6226 (CM)

DECLARATION OF ROBERT WILLIAM YALEN

I, Robert William Yalen, declare pursuant to the provisions of 28 U.S.C. § 1746 as follows:

1. I am the Assistant United States Attorney with principal responsibility for representing the defendants in this matter. I submit this declaration in support of defendants' motion to dismiss the complaint and to put before the Court certain information and documents relating to plaintiff's application for naturalization.

2. In the ordinary course of the review of Bustamante's application by United States Citizenship and Immigration Services ("USCIS"), USCIS asked the Federal Bureau of Investigation ("FBI") to perform a background investigation of Bustamante.

3. The FBI's background investigation was completed on October 27, 2006, ending the FBI's involvement with Bustamante's application.

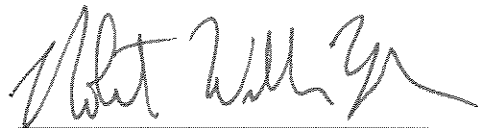
4. On August 24, 2007, USCIS denied Bustamante's application on the ground that he lacked good moral character. Attached as Exhibit A is a true and correct copy of USCIS's August 24, 2007 decision denying the application.

5. USCIS's decision advised Bustamante that he had the right to seek administrative review of the denial of the application by submitting a request for a hearing on the application. *See Ex. A.*, at 1. Bustamante did not submit such a request.

6. Although in the present case USCIS denied Bustamante's application subsequent to the commencement of this action, many times USCIS has granted naturalization applications subsequent to the applicant's filing suit under § 1447(b). In numerous such cases, this Office and the plaintiffs have entered into stipulations of dismissal on the basis of the subsequently decided naturalization application. Attached as Exhibit B are true and correct copies of stipulations of dismissal in several cases: Stipulation & Order of Dismissal, *Steward v. Gonzales*, No. 07 Civ. 7019 (HB) (S.D.N.Y. Oct. 2, 2007); Stipulation & Order of Settlement & Dismissal, *Shafirovich v. Chertoff*, 07 Civ. 2019 (LBS) (S.D.N.Y. Aug. 8, 2007); Stipulation & Order of Settlement & Dismissal, *Subramanya v. Chertoff*, 07 Civ. 3316 (JSR) (S.D.N.Y. July 31, 2007); Stipulation & Order of Dismissal, *Salimzadeh v. USCIS*, No. 05 Civ. 7969 (RMB) (S.D.N.Y. Nov. 17, 2006); Stipulation & Order of Dismissal, *Furman v. Gonzales*, No. 05 Civ. 6927 (HB) (S.D.N.Y. Nov. 10, 2005).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
October 4, 2007



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